

*Settlement and award costs* means defense costs and costs arising from judicial orders, negotiated agreements, arbitration, or an order from a Federal agency or board and includes compensatory damages, underpayment for work performed, and reimbursement for a complainant employee's legal counsel.

(2) For costs associated with employee whistleblower actions where a retaliatory act is alleged against a covered contractor or subcontractor, the contracting officer:

(i) May authorize reimbursement of costs on a provisional basis, in appropriate cases;

(ii) Must consult with the Office of General Counsel whistleblower costs point of contact, who will consult with other Headquarters points of contact as appropriate, before making a final allowability determination; and

(iii) Must determine allowability of defense, settlement and award costs on a case-by-case basis after considering the terms of the contract, relevant cost regulations, and the relevant facts and circumstances, including federal law and policy prohibiting reprisal against whistleblowers, available at the conclusion of the employee whistleblower action.

(3) Covered contractors and subcontractors must segregate legal costs, including costs of in-house counsel, incurred in the defense of an employee whistleblower action so that the costs are separately identifiable.

(4) If a contracting officer provisionally disallows costs associated with an employee whistleblower action for a covered contractor or subcontractor, funds advanced by the Department may not be used to finance costs connected with the defense, settlement and award of an employee whistleblower action.

(5) Contractor defense, settlement and award costs incurred in connection with the defense of suits brought by employees under section 2 of the Major Fraud Act of 1988 are excluded from coverage of this section.

[65 FR 62301, Oct. 18, 2000]

## PART 932—CONTRACT FINANCING

Sec.

932.006–4 Procedures.

### Subpart 932.1—General

932.102 Description of contract financing methods.

### Subpart 932.3—Loan Guarantees for Defense Production

932.304–2 Certificate of eligibility.

### Subpart 932.4—Advance Payments for Non-Commercial Items

932.402 General.

932.407 Interest.

### Subpart 932.5—Progress Payments Based on Costs

932.501–2 Unusual progress payments.

### Subpart 932.6—Contract Debts

932.605 Responsibilities and cooperation among Government officials.

### Subpart 932.8—Assignment of Claims

932.803 Policies.

### Subpart 932.9—Prompt Payment

932.970 Implementing DOE policies and procedures.

### Subpart 932.70—DOE Loan Guarantee Authority

932.7002 Authority.

932.7003 Policies.

932.7004 Procedures.

932.7004–1 Guaranteed loans for civilian programs.

932.7004–2 Criteria.

932.7004–3 Eligibility.

AUTHORITY: 42 U.S.C. 7254; 40 U.S.C. 486(c).

SOURCE: 49 FR 12011, Mar. 28, 1984, unless otherwise noted.

### 932.006–4 Procedures.

(a) The remedy coordination official shall follow the procedures identified in FAR 32.006–4.

(b) [Reserved]

[63 FR 5273, Feb. 2, 1998]